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Supreme Court, U.S.  
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IN THE SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1986

CLERK

THE PEOPLE OF THE STATE OF MICHIGAN  
PETITIONER  
vs.  
RONNIE WILLIAMS  
RESPONDENT

PETITION FOR A WRIT OF CERTIORARI  
TO THE COURT OF APPEALS  
OF THE STATE OF MICHIGAN

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25/87



STATEMENT OF QUESTION PRESENTED

DOES THE SIXTH AMENDMENT RIGHT TO SPEEDY TRIAL ATTACH UPON ARREST, OR UPON THE ARRAIGNMENT OF THE DEFENDANT ON FORMAL CHARGES (IN A SITUATION WHERE DEFENDANT WAS ARRESTED, RELEASED, AND A NOT-IN-CUSTODY WARRANT ISSUED)?

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

THE PEOPLE OF THE STATE OF MICHIGAN

Petitioner,

v

RONNIE WILLIAMS

Respondent.

PETITION FOR A WRIT OF CERTIORARI

TO THE COURT OF APPEALS

OF THE STATE OF MICHIGAN

NOW COME the People of the State of Michigan, by John D. O'Hair, Prosecuting Attorney for the County of Wayne, and Timothy A. Baughman, Chief of the Criminal Division, Research, Training and

Appeals, and pray that a writ of certiorari issue to review the judgment of the Court of Appeals of the State of Michigan entered in the above cause on September 4, 1986, leave to appeal denied by the Michigan Supreme Court on February 17, 1987 (three justices dissenting).

#### OPINIONS BELOW

The opinion of the Michigan Court of Appeals is unreported and is appended as Appendix A. The order of the Michigan Supreme Court denying leave to appeal is appended as Appendix B.

#### STATEMENT OF JURISDICTION

The judgment of the Michigan Court of Appeals was entered on September 4, 1986. The order of the Michigan Supreme Court



was entered on February 17, 1987. the jurisdiction of this Court is invoked under 28 USC 1257(3).

#### CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides, in pertinent part, that "In all criminal prosecutions, the accused shall enjoy the right to a speedy...trial...."

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of

law; nor deny to any person within its jurisdiction the equal protection of the laws.

## STATEMENT OF THE CASE

On July 13, 1983, the respondent was arrested for possession with intent to deliver a controlled substance; to-wit, heroin. The respondent was conveyed to the police station and released while officers sought a not-in-custody warrant. On August 16, 1983 a chemical analysis was conducted on the suspected controlled substance finding 4.78 grams of powder containing heroin. On September 8, 1983 a warrant was recommended by the Prosecutor's Office, and a complaint and warrant issued. The respondent was brought back into court in mid 1985 as a result of a police search of his home, at which time the police became aware that there existed an outstanding warrant for the respondent (3-4). On June 28, 1985

the respondent waived his right to a preliminary examination. On or about August 15, 1985 the respondent filed a motion to dismiss based on a lack of speedy trial. That motion was heard on August 27, 1985 before the Honorable Henry L. Heading, Judge of the Recorder's Court for the City of Detroit. The respondent argued that the delay in bringing the respondent to trial was not justified and that the prejudice after an 18 month delay was presumed (4). The People responded that the argument before the court was not a speedy trial argument; rather, it was a speedy arrest argument (5,7). The court agreed with the defense conjecture that "suppose there were witnesses that could have testified at a trial." (11). The court ultimately found an unnecessary delay and dismissed the charges against the respondent. The

People appealed as a matter of right.

On appeal the Michigan Court of Appeals held that the initial arrest and release of respondent triggered the Sixth Amendment right to speedy trial ("the right to a speedy trial attaches upon arrest"), without regard to an arraignment of the accused on formal charges.

The Michigan Supreme Court denied leave to appeal, three justices dissenting, with one justice noting that "the issue is of jurisprudential significance to both defendants and the people because of the frequency with which defendants are arrested, released, and the warrant remains outstanding until it is discovered during the investigation of an unrelated matter."

**REASONS FOR GRANTING THE WRIT**

In reliance upon cases from this Court, namely United States v Marion, 404 US 307, 313; 92 S Ct 455,459; 30 L Ed 2d 468,474 (1971) and United States v McDonald, 456 US 1; 102 S Ct 1497; 71 L Ed 2d 696 (1982), the Michigan Court of Appeals held that an arrest rather than an arraignment of the accused on formal charges triggers the Sixth Amendment right to speedy trial (the respondent here was released pending analysis of the drugs seized, and a not-in-custody warrant subsequently issued). Petitioner submits that the court misconstrued this Court's holdings.

The Sixth Amendment speedy trial provision has no application until the putative defendant in some way becomes an

"accused". United States v Marion, 404 US 307, 313; 92 S Ct 455,459; 30 L Ed 2d 468,474 (1971). A closer inspection of the Marion case, the case relied upon by the Michigan Court of Appeals, clarifies the point at which the right attaches. The Court spoke of the Sixth Amendment right as an important safeguard to prevent undue and oppressive incarceration prior to trial. 404 US, supra at 320. The Court stated "So viewed, it is readily understandable that it is either a formal indictment or information or else the actual restraints imposed by arrest and holding to answer a criminal charge that engage the particular protections of the speedy trial provision of the Sixth Amendment"(emphasis added). 404 US supra at 320.

In the instant case, while the not-in-custody warrant was issued in 1983, there were no restraints occasioned by the actual arrest and detention of the respondent until 1985. The arrest which resulted in the respondent's release from the stationhouse was not conducted pursuant to a warrant and did not involve the restraints contemplated by the Marion Court so as to trigger the speedy trial protections (8). It is submitted that the speedy trial right of the Sixth Amendment and the case law which interprets the same is inapplicable to the instant case.

The respondent is not left without a claim, as noted by the United States Supreme Court in subsequent cases which reaffirmed the Marion rule. The Court in United States v Lovasco, 431 US 783, 97 S Ct 2044; 52 L Ed 2d 752 (1977) ruled that



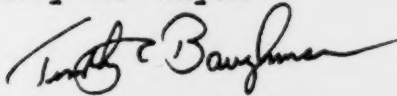
a defendant does have a due process claim in the event of a finding of offensive pre-indictment delay. That claim has not been litigated in this case.

CONCLUSION

WHEREFORE, petitioner respectfully requests, for the reasons above stated, that the petition for certiorari be granted.

Respectfully submitted,

JOHN D. O'HAIR  
Prosecuting Attorney  
County of Wayne

A handwritten signature in dark ink, appearing to read "Timothy A. Baughman". The signature is fluid and cursive, with the first name "Timothy" written in a more compact, stylized manner, and the last name "Baughman" written in a more extended, flowing script.

TIMOTHY A. BAUGHMAN  
Chief of the Criminal Division  
Research, Training and Appeals

APPENDICES



OPINION OF THE MICHIGAN COURT OF  
APPEALS

STATE OF MICHIGAN  
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,  
September 4, 1986

v.

RONNIE WILLIAMS,

Defendant-Appellee.

Docket No. 70711

Before: MacKenzie, P. J., and Beasley  
and C. W. Simon\*, J. J.

PER CURIAM

Defendant was charged with possession with intent to deliver a controlled substance, MCL 333.7401(2)(a); MSA 14.15(7401)(2)(a). The people appeal as of right from an order dismissing the charge on the basis of a speedy trial violation. We affirm.

\*Circuit Judge, sitting on the Court  
of Appeals by assignment.

The facts are not in dispute. On July 13, 1983, defendant was arrested without a warrant for possession with intent to deliver a controlled substance, taken to the police station, and then released without a date to appear in court. In September 1983, after analysis of the substance taken from defendant at the time of his arrest was found to be heroin, a complaint and warrant for defendant's arrest were issued. In June 1985, while investigating an unrelated matter, the police discovered the outstanding warrant and again arrested defendant. Following his waiver of preliminary examination, defendant successfully moved to dismiss based on lack of speedy trial.

On appeal, plaintiff contends that the July 1983 arrest of defendant did not trigger the speedy trial protections because it was not conducted pursuant to a warrant and did not result in defendant's "restraint" within the meaning of the Sixth Amendment. We do not agree. The right to a speedy trial attaches upon arrest. United States v Marion, 404 US 307; 92 S Ct 455; 30 L Ed 468 (1971); People v Grimmett, 388 Mich 590; 202 NW2d 278 (1972), overruled on other grounds 390 Mich 245, 258 (1973). The right is not dependent upon whether the defendant is kept in custody. People v Den Uye, 320 Mich 477; 31 NW2d 699 (1948). The speedy trial guarantee is designed not only to minimize the possibility of lengthy incarceration, but also to shorten the disruption of life caused by arrest and the presence of

unresolved criminal charges. United States v McDonald, 456 US 1; 102 S Ct 1497; 71 L Ed 2d 696 (1982).

After reviewing the record in light of the four factors articulated in Barkeer v Wingo, 407 US 514; 92 S Ct 2182; 33 L Ed 2d 101 (11972) and adopted in Grimmett, supra, we conclude that the trial court did not abuse its discretion in dismissing the charges against defendant.

Affirmed.

/s/ Barbara B. MacKenzie  
/s/ William R. Beasley  
/s/ Charles W. Simon, Jr.



ORDER OF THE MICHIGAN SUPREME COURT

AT A SESSION OF THE SUPREME COURT OF THE  
STATE OF MICHIGAN, Held at the Supreme  
Court Room, in the City of Lansing, on  
the 17th day of February in the year of  
our Lord, one thousand nine hundred and  
eighty-seven.

Present the Honorable DOROTHY COMSTOCK  
RILEY, Chief Justice

CHARLES L. LEVIN,  
JAMES H. BRICKLEY,  
MICHAEL F. CAVANAGH,  
PATRICIA J. BOYLE,  
DENNIS W. ARCHER,  
ROBERT P. GRIFFIN,

Associate Justices

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v.

SC: 79512

COA: 87446

LC: 85-03865

RONNIE WILLIAMS,

Defendant-Appellee.

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On order of the Court, the delayed application for leave to appeal is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

Brickley, J., and Riley, C. J., would grant Leave to appeal.

Boyle, J., would grant leave to determine whether, absent a formal indictment or information, the Sixth Amendment right to speedy trial is triggered by the arrest of a defendant who is not detained. The issue is of jurisprudential significance to both defendants and the people because of the frequency with which defendants are arrested, released, and the warrant remains outstanding until it is discovered during the investigation of an unrelated matter.

STATE OF MICHIGAN -- ss.

I, CORBIN R. DAVIS, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of

an order entered in said court in said cause, that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

(seal) IN TESTIMONY WHEREOF, I have hereunto set my hand and affirmed the seal of said Supreme Court at Lansing, this 17th day of February in the year of our Lord one thousand nine hundred and eighty-seven.

/s/ Jacqueline B. MacKinnon  
Deputy Clerk

